

REMARKS

This is a full and timely response to the outstanding nonfinal Office Action mailed January 28, 2005. Reconsideration and allowance of the application and presently pending claims 27-78, as amended, are respectfully requested.

1. Claim Objections

a. Claim 27

Claim 27 is objected to because at “line 1, ‘detecting’ should be corrected as – indicating --.”

Applicants believe that the phrase “a detection system for detecting the presence of an image capture device in the vicinity of a person” is very clear and unambiguous. That is, a detector “detects” something. Here, the recited detector system detects the presence of an image capture device in the vicinity of a person. This is what the Applicants intended to impart in the preamble of claim 27.

The subsequent response of the image capture device, after presence of an image capture device is detected in the vicinity of a person, is the subject of the recited limitations. Namely, after presence of an image capture device is detected in the vicinity of a person, an indication is provided.

Applicants believe that there is no ambiguity in what the recited detector of claim 27 is doing. Accordingly, Applicants believe that the requirements of 35 U.S.C §112 are satisfied, and respectfully request withdrawal of the objection.

b. Claim 55

Claim 55 is objected to, and “the applicant is required to clarify what intended by ‘wherein a sensor of the image capture device is the radio receiver arranged to receive ...’ It is not clear how the sensor being a radio receiver.”

In response to the objection, Applicants have amended claim 55. In view of the above-noted amendment, Applicants submit that amended claim 55 is not objectionable, and respectfully request that the objection be withdrawn.

2. Response to Rejection of Claims 27-55 and 58-78 Under 35 U.S.C. §103

In the Office Action, claims 27-55 and 58-78 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Everett, Jr. et al.* (U.S. Pat. 4,857,912), hereinafter *Everett*, in view of *Naidoo et al.* (U.S. Pat. 6,658,091), hereinafter *Naidoo*.

Applicants note that the filing date of *Naidoo* is February 1, 2002. *Naidoo* does not claim priority to any earlier filed patents or applications. Accordingly, the earliest date upon which *Naidoo* may be considered as a prior art reference is February 1, 2002.

Applicants have properly claimed and perfected priority to Great Britain application, GB 0104080.7, filed on February 20, 2001.

Because a reference used to reject claims under 35 U.S.C. §102 or §103 “must be at least minimally available to the public to constitute prior art” (MPEP §2126), the priority date of a cited reference must be before the February 20, 2001 filing date of the GB Patent Application. Because the relevant priority date of the present application precedes the earliest effective date of *Naidoo*, *Naidoo* can not be used as a basis for a rejection under 35 U.S.C. §103(a). Accordingly, Applicants respectfully request withdrawal of the rejection of claims 27-55 and 58-78.

3. Response to Rejection of Claims 56-57 Under 35 U.S.C. §103

In the Office Action, claims 56-57 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Everett*, in view of *Schieke et al.* (U.S. Publication No. 2002/0075134), hereinafter *Schieke*.

Because independent claim 27 is allowable over the cited art of record, dependent claims 56-57 (which depend from independent claim 27) are allowable as a matter of law for at least the reason that the dependent claims 56-57 contains all features/elements of independent claim 27. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to these claims should be withdrawn.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now 27-78 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



Raymond W. Armentrout
Reg. No. 45,866